

A bid Proposal will not be considered for award nor will any award be made where there has not been compliance with the statements in the certification above.

The fact a bidder (1) has published price lists, rates, or tariffs covering items being procured, (2) has informed prospective customers of proposed or pending publication of new or revised price lists for such item, or (3) has sold the same items to other customers at the same prices being bid, does not constitute a disclosure within the meaning of part 1 of the certification above.

SECTION 103 AWARD AND EXECUTION OF CONTRACT

103.01. CONSIDERATION OF PROPOSALS.

Following the public opening and reading of the Proposals, the Department will check and verify the product (extended amount) for each bid item and the Proposal amount for each Proposal received. The product (extended amount) for each bid item is then compared to the Department's estimate for each Proposal submitted. The Proposal amount for each acceptable Proposal submitted will then be compared and the results made public. The Commission reserves the right to reject any or all Proposals, waive an administrative error in the award process that would void an otherwise valid award, to advertise for new Proposals, or proceed to do the work otherwise when the best interest of the State will be promoted thereby.

103.02. AWARD OF CONTRACT.

Award of the Contract will be made by the Commission, upon the recommendation of the Director, to the lowest responsible bidder submitting a responsive bid and meeting the requirements of the Commission. The award, if made, will be within the time allowed by law after the opening of Proposals.

103.03. CANCELLATION OF AWARD.

The Commission reserves the right to cancel the award of any Contract at any time before the execution of said Contract without liability against the Commission or the Department.

In Projects which are proposed to be funded in whole or in part by Federal Funds, it is expressly agreed and understood that the receipt of such funds is essential to the Contract and the receipt of such funds requires the concurrence of the funding Federal Agency. If the funding Federal Agency neglects, fails, or refuses to concur in the award of the Contract, the Commission reserves the right to unilaterally rescind the award of the Contract despite the full and complete execution of the Contract by all parties.

In the event the Commission elects to exercise its right of unilateral rescission, the Contract's Proposal Guaranty shall be returned to the Contractor and both parties shall thereafter be released from any and all obligations and liabilities which otherwise would exist by reason of the Contract.

103.04. RETURN OF PROPOSAL GUARANTIES.

When the lowest responsible bidder submitting a responsive bid has been determined, the Proposal Guaranties which accompanied those Proposals of the unsuccessful bidders will be returned. The bidding security of the successful bidder will be retained by the Department until the Contract and bonds have been executed and approved after which the Proposal Guaranty will be returned to the successful bidder.

103.05. BONDING REQUIREMENTS.

The bidder to whom the Contract is awarded shall, at the time of the execution of the Contract, deposit with the Department a Performance Bond, Statutory and Payment Bond and, where applicable, a Maintenance Bond as required by law. The Surety shall be acceptable to the Department and shall be in conformance with the rules, regulations, policies and procedures of the Commission. The terms of the bonds shall be provided by the Department, be executed by the Surety, and accompanied by valid and acceptable Powers of Attorney.

103.06. (RESERVED)**103.07. EXECUTION OF CONTRACT.**

The individual, partnership, joint venture, or corporation to whom the Contract has been awarded shall sign and attest, where applicable, the necessary forms for entering into a Contract with the Department, and return the executed Contract to the Office Engineer of the Department at Oklahoma City, Oklahoma, within the time limit specified in the Proposal.

103.08. APPROVAL OF CONTRACT.

The Contract shall not be binding upon the Department or Commission until it has been executed by the Director or his/her authorized designee, approved as to form and legality by the General Counsel or his/her authorized designee, and delivered to the Contractor.

103.09. FAILURE TO EXECUTE CONTRACT.

Failure to comply with any of the requirements of these Specifications, to execute the Contract, or to furnish the bonds required by law shall nullify the Award. In the event of such annulment of the award, the amount of the Proposal Guaranty shall be subject to forfeiture to the Department.

SECTION 104 SCOPE OF WORK

104.01. PURPOSE OF CONTRACT.

The purpose of the Contract is to provide for the construction and completion in every detail of the work described in the Proposal. The Contractor shall furnish all labor, materials, equipment and incidentals required to complete the work in a workmanlike manner and in accordance with the Plans, Specifications and terms of the Contract.